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s/ Brooke Spieth

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Miller et al.

Group Art Unit: 1771

Serial No.: 10/055,774

Examiner: N. Torres-Velazquez

Filed: January 22, 2002

Attorney Docket No.: 24493B

For: STORM PROOF ROOFING MATERIAL

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Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

AMENDMENT AFTER FINAL

Sir:

This amendment is submitted in response to the Final Office Action dated September 12, 2003. The Examiner is invited to telephone the Applicants' undersigned attorney at (740) 321-7167 if any unresolved matters remain.

Remarks:

In the Office Action dated 9/12/2003, the Examiner indicated that claims 1, 2, 5, 6, 12-14, 17-2-, 24-27, 26-39, 41-43 and 45-58 are pending, while claims 17-20, 24-27, 36-39 and 42-43 are withdrawn; claims 14, 57 and 58 are allowed, while 1, 5, 6, 12, and 13 stand rejected, and 2 and 44-56 stand objected to. Applicants thank the Examiner for careful consideration of this case and the clarity of the direction provided in the Office Action, and requests reconsideration based on the submissions and remarks provided herewith.

Terminal Disclaimer

The Examiner indicated that the previously-filed terminal disclaimer was not accepted, because Applicants' power of attorney was not effective to grant authority to Applicants' agent. Accordingly, as suggested by the Examiner, Applicants submit herewith a newly signed empowerment statement. A copy of the previously filed Terminal Disclaimer is also enclosed. Accordingly, Applicants believe the Terminal Disclaimed is now acceptable, and should overcome the rejections noted below.

Election

Applicants authorize cancellation of the nonelected claims without prejudice to filing a divisional or continuation application.

Claim Rejections

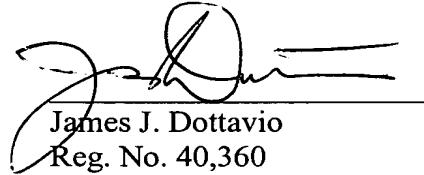
Claims 1, 5, 6, , 12 and 13 stand rejected under the judicially created doctrine of obviousness-type double patenting over USP 6,426,309. As indicated above, Applicants have submitted a new power of attorney, which Applicants believe will provide for the acceptance of Applicants' previously submitted Terminal Disclaimer. Applicants believe that such Terminal Disclaimer obviates the basis for this rejection for the reasons stated in Applicants' prior response. Accordingly, Applicants believe that these claims are now allowable.

Claim Objections

Claims 2, 44-56 stand objected to for depending from a rejected claim. Based on the terminal disclaimer, Applicants believe that the claims from which these objected claims depend are now allowable, and therefore believe that this objection has been overcome.

Accordingly, Applicants believe that all remaining claims are now in condition for allowance. If any additional fee is due in connection with the filing of this paper, please charge all necessary fees to Deposit Account No. 50-0568.

Respectfully submitted,



James J. Dottavio
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Date: 10-15-03

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